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**THIS DISPOSITION IS NOT  
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Paper No. 8  
GDH/gdh

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re **Litestructures (GB) Limited**

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Serial No. 76/**164,320**

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**Richard E. Jenkins** of Jenkins & Wilson, P.A. for **Litestructures (GB) Limited**.

**Christine Cooper**, Trademark Examining Attorney, Law Office 104  
(Sidney Moskowitz, Managing Attorney).

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Before **Hohein**, **Hairston** and **Holtzman**, Administrative Trademark Judges.

Opinion by **Hohein**, Administrative Trademark Judge:

**Litestructures (GB) Limited** has filed an application to register the term "LITESTRUCTURES" for "metal building materials, namely, lattices, roof trusses, girders, joists, trellises, beams, rails, posts, latch bars, brazing and welding rods, tubing, and cornices for temporary structures, stage structures, stage platforms, backdrops, exhibition structures

and lighting gantries; metal fasteners, namely, bolts, hooks, nuts, brads, clamps, and cotter pins; metal pipe fittings and couplings, namely, spigots, collars, elbows, connectors, and clips; metal wall panels, ceiling panels and flooring for stage structures; [and] prefabricated metal platforms."<sup>1</sup>

Registration has been finally refused under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the basis that, when used in connection with applicant's goods, the term "LITESTRUCTURES" is merely descriptive of them.

Applicant has appealed. Briefs have been filed,<sup>2</sup> but an oral hearing was not requested. We affirm the refusal to register.

It is well settled that a term is considered to be merely descriptive of goods or services, within the meaning of Section 2(e)(1) of the Trademark Act, if it forthwith conveys information concerning any significant ingredient, quality, characteristic, feature, function, purpose, subject matter or use of the goods or services. See, e.g., In re Gyulay, 820 F.2d

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<sup>1</sup> Ser. No. 76/164,320, filed on November 8, 2000, which is based on an allegation of a bona fide intention to use such term in commerce.

<sup>2</sup> The Examining Attorney, noting in her brief that applicant submitted a list of third-party registrations for the first time in its brief, has objected to such listing on the basis that it "constitute[s] new evidence as the registrations were not made part of the record prior to the applicant's appeal." Inasmuch as the Examining Attorney is correct that such evidence is untimely under Trademark Rule 2.142(d), the objection is sustained and the list of third-party registrations will not be given further consideration.

1216, 3 USPQ2d 1009, 1009 (Fed. Cir. 1987) and In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 217-18 (CCPA 1978). It is not necessary that a term describe all of the properties or functions of the goods or services in order for it to be considered to be merely descriptive thereof; rather, it is sufficient if the term describes a significant attribute or idea about them. Moreover, whether a term is merely descriptive is determined not in the abstract but in relation to the goods or services for which registration is sought, the context in which it is being used or is intended to be used on or in connection with those goods or services and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of such use. See In re Bright-Crest, Ltd., 204 USPQ 591, 593 (TTAB 1979). Thus, "[w]hether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." In re American Greetings Corp., 226 USPQ 365, 366 (TTAB 1985).

Applicant, in its brief, argues among other things that "prospective customers encountering Applicant's LITESTRUCTURES mark will not have a definite idea about the specific nature of Applicant's product (metal building materials)." In particular, applicant contends that:

Applicant's mark ... does not convey an immediate idea of the goods identified thereby (metal building materials and the

like). Rather, Applicant's proposed mark clearly requires the consumer to expend considerable imagination in order to reach any conclusion about the nature of the goods ... and thus is "suggestive" as opposed to "merely descriptive" of the goods. Applicant's proposed mark does not convey a real and unequivocal idea of some characteristic, feature, function, quality or ingredient of the goods to a potential buyer but requires some reflection or multi-stage reasoning process ... in order to derive a direct message from the mark about the quality, ingredients, or characteristics of the goods.

Applicant also "urges that the mark LITESTRUCTURES has a variety of meanings and could be construed as suggesting any number of different goods, [thereby] lending itself to be denoted as merely suggestive." Additionally, applicant asserts that "even if the components of a mark can be considered as ordinary words and descriptive, it does not follow that the composite mark as a whole is unregistrable, since the critical question is whether a ... mark in its entirety is descriptive to prospective customers." Here, applicant maintains, "while the Examining Attorney has broken Applicant's mark into two elements to arrive at a finding of descriptiveness, analysis of the whole mark, as is proper, leads to the conclusion that the LITESTRUCTURES mark is at most merely suggestive of Applicant's metal structures goods." Finally, applicant insists that the evidence submitted by the Examining Attorney, which it characterizes as consisting of "several excerpts and ...

printouts which allegedly illustrate the descriptive nature of Applicant's LITESTRUCTURES mark[,] does not per se render Applicant's mark descriptive" because such evidence is ambiguous. Furthermore, according to applicant, "the few arguably descriptive uses of the mark in the evidence presented by the Examining Attorney are an insufficient basis upon which to find that the mark is descriptive."

We agree with the Examining Attorney, however, that the evidentiary record is sufficient to demonstrate that the term "LITESTRUCTURES" "immediately and unequivocally informs the average or ordinary customer for the applicant's metal building materials and structures that the applicant's metal goods are lightweight or used for lighting purposes." As the Examining Attorney notes, and applicant does not disagree therewith, the term "LITESTRUCTURES" is obviously a combination of the word "lite," which the record shows is a variation of the term "light," and the plural of the word "structure." The word "lite," the Examining Attorney points out, is set forth in the definition thereof which is of record from The American Heritage Dictionary of the English Language (3rd ed. 1992) as meaning "[h]aving less substance or weight ... than something else." In addition, we judicially notice that the same dictionary, in a later version thereof (4th ed. 2000), defines the word "light" in relevant part as an adjective meaning "**1a.** Of relatively

little weight; not heavy: a *light load*. **b.** Of relatively little weight for its size or bulk: *Balsa is a light wood*. **c.** Of less than the correct, standard, or legal weight: a *light pound*" and as a noun meaning "**3a.** A source of light, especially a lamp, a lantern, or an electric lighting fixture: *Turn out the lights when you leave.*"<sup>3</sup> With respect to the word "structure," the Examining Attorney notes that the definition thereof which is of record from The American Heritage Dictionary of the English Language (3rd ed. 1992) defines such word as "**1.** Something made up of a number of parts that are held or put together in a particular way." Such word, we judicially notice, is also listed by the same dictionary, in a later edition thereof (4th ed. 2000), as meaning "**4.** Something constructed, such as a building."

In addition, the Examining Attorney has made of record in support of her position copies of numerous third-party registrations which, by virtue of the fact that in each instance the term "LITE" is disclaimed with respect to marks which include such term, demonstrate that "the wording 'LITE' is commonly used by others to describe both lightweight and

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<sup>3</sup> It is settled that the Board may properly take judicial notice of dictionary definitions. See, e.g., *Hancock v. American Steel & Wire Co. of New Jersey*, 203 F.2d 737, 97 USPQ 330, 332 (CCPA 1953); *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co., Inc.*, 213 USPQ 594, 596 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); and *Marcal Paper Mills, Inc. v. American Can Co.*, 212 USPQ 852, 860 (TTAB 1981) at n. 7.

lighting products." Also of record are copies of various webpages and several excerpts from the "NEXIS" database which, the Examining Attorney maintains, "clearly demonstrate that the word 'light,' equivalent in meaning to its alternative spelling 'lite,' is commonly used to describe metal buildings and structures and particularly to describe the *advantages* of light building materials and structures" (*italics in original*). The following examples thereof (**emphasis added**) are representative:

"However, for environmental considerations in critical listening spaces, like conference rooms and auditoria, and for many other spaces with **light-weight building structures** ..., the sound generated by mechanical equipment and its effects on the overall acoustical environment in a building must be considered." -- article on "SOUND AND VIBRATION CONTROL " at <http://www.confex.-com/store/items/ashrac/handbook/A46IP.htm>;

"The construction of **light weight structures** that support wire antennas requires some definitive insight into the behavior of the materials. .... In the case of most **light structures**, the bending will be more than is desirable ...." -- article on "Construction Practices" at <http://autoinfo.-smartlink.net/kg6rh/antenna/construction.htm>;

"CRAE produces fabricated sheet metal/**light structures** ...." -- article on "CRAE ELETTROMECCANICA SPA -FABRICATED METAL STRUCTURES AND MANUFACTURING SOLUTIONS" at <http://www.railway-technology.com/-contractors/training/crae.htm>;

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"In addition to common residential and commercial **light structures**, we have been called upon to evaluate performance problems in very specialized applications ...." -- article on "Evaluation of Existing Wood Structures and Assemblies" at <http://www.-woodadvisory.com/evaluation.htm>;

"Various types of foundations for **light structures** are considered in relation to their suitability for land that may settle." -- article on "Foundations for Housing on Reclaimed Mined Lands" at <http://www.ext.vt.-edu/pubs/mines/460-115/460-115.html>;

"Enviro Buildings' **structures** are **lightweight** and modular for on-site installation." -- Wireless Review, September 1999;

"Seeks U.S. partner with experience, preferably in steel/**light building structures**." -- Journal of Commerce, March 23, 1994; and

"With the trend toward **light-weight building structures** ..., the sound generated by mechanical equipment and its effects on the overall acoustical environment in a building must be considered." -- Heating, Piping, Air Conditioning; February 1994.

Finally, the Examining Attorney points out that, as set forth in the final refusal, "even the applicant, through its website, [www.litestructures.co.uk](http://www.litestructures.co.uk), touts its building materials and structures as *lightweight*, or made from aluminum, a lightweight metallic element" (italics in original). Excerpts therefrom include the following (**emphasis added**):



"Teatrart and Litex are ingenious 'pop-up' **lightweight staging systems** for applications that need speed of assembly with minimal storage space"; and

"The exceptionally **lightweight** Minifour **system** allows wide scope for design flexibility in display shelving."

Other excerpts from applicant's website, the Examining Attorney observes, provide "information regarding its building materials and structures designed for use as lighting systems," including the following (**emphasis added**):

"Complete **lighting support systems** can be designed and installed by Litestructures for exhibition and retail applications"; and

"Systems can include displays, signs/banners, **lighting systems**, and fittings for audio-visual equipment .... The ability to design, build and install unique, integrated display & **lighting systems** sets Litestructures apart from its competitors."

It is settled that registration must be denied if a term is merely descriptive of any of the goods or services for which registration is sought. See, e.g., In re Quik-Print Copy Shop, Inc., 616 F.2d 523, 205 USPQ 505, 507 (CCPA 1980). Here, and contrary to applicant's contentions, the evidence noted above confirms that to purchasers of applicant's goods and prospective customers therefor, the term "LITESTRUCTURES" would immediately describe, without conjecture or speculation, that its various metal building materials for temporary structures,

stage structures, stage platforms, backdrops, exhibition structures and lighting gantries, as well as its metal wall panels, ceiling panels and flooring for stage structures and its prefabricated metal platforms, are respectively for use in or function as light structures, that is, structures which are light in weight. In addition, such term directly and unequivocally describes, when used in connection with applicant's prefabricated metal platforms and its metal building materials for temporary structures, stage structures, stage platforms, backdrops, exhibition structures and lighting gantries, that such goods are respectively for use as or in light structures, that is, structures for lighting. Plainly, when viewed in the context of its goods and not in the abstract as urged by applicant, customers and prospective buyers will readily understand, without the need for the exercise of imagination, cogitation or mental processing or the gathering of further information, that applicant's "LITESTRUCTURES" products are for use in or as, depending upon the particular product, lightweight or lighting structures. Plainly, nothing in such term is ambiguous, incongruous or perhaps susceptible to any other plausible meaning.

As to applicant's further argument that when the individually descriptive words "lite" and "structures" are combined, the composite term "LITESTRUCTURES" as a whole fails

to convey forthwith a merely descriptive significance, we note that two (or more) descriptive words may indeed be combined to form a valid, registrable mark which, considered in its entirety, is not merely descriptive. However, as stated by the Board in, for example, *In re Medical Disposables Co.*, 25 USPQ2d 1801, 1804 (TTAB 1992), in order for such to be the case:

[T]he mere act of combining does not in itself render the resulting composite a registrable trademark. Rather, it must be shown that in combination the descriptiveness of the individual words has been diminished, [such] that the combination creates a term so incongruous or unusual as to possess no definitive meaning or significance other than that of an identifying mark for the goods. See *In re Calspan Technology Products, Inc.*, 197 USPQ 647 (TTAB 1977).

We concur with the Examining Attorney that the descriptive words "lite" and "structures," when joined so as to form the term "LITESTRUCTURES," "retain their descriptive meaning" in the combined term when considered as a whole. Combining such words into the term "LITESTRUCTURES" does not create a composite which is so incongruous or unusual, or which otherwise possesses a new meaning different from its constituent words, as to possess no definitive meaning or significance other than that of an identifying mark for applicant's goods. Instead, as indicated previously, there is simply nothing in the term "LITESTRUCTURES" which, when used in connection with

applicant's goods, requires the exercise of imagination, cogitation or mental processing or necessitates the gathering of further information in order for the merely descriptive significance thereof to be immediately apparent. Clearly, to purchasers of and prospective customers for applicant's goods, such term conveys forthwith that applicant's metal building materials for temporary structures, stage structures, stage platforms, backdrops, exhibition structures and lighting gantries, along with its metal wall panels, ceiling panels and flooring for stage structures and its prefabricated metal platforms, are respectively for use in or function as light structures in the sense of structures which are light in weight. Such term, with respect to applicant's various metal building materials and prefabricated metal platforms also readily informs buyers thereof that the products respectively are for use as or in light structures, that is, structures for lighting. The term "LITESTRUCTURES" is accordingly merely descriptive of applicant's goods within the meaning of the statute. See, e.g., In re Sun Microsystems Inc., 59 USPQ2d 1084, 1088 (TTAB 2001) [term "AGENTBEANS" held merely descriptive of computer software for use in development and deployment of application programs] and In re In re Bright-Crest, Ltd., supra at 594 [designation "COASTER-CARDS" found merely descriptive of coasters suitable for direct mailing].

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**Decision:** The refusal under Section 2(e)(1) is affirmed.